

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6214 OF 2019

SACHIN RAMLING NALAWADE)...PETITIONER

V/s.

YOGESH VILAS KHUDE AND OTHERS)...RESPONDENTS

Mr.Nanaso V.Gaikwad, Advocate for the Petitioner.

Mr.A.R.Kapadnis, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 25TH FEBRUARY 2020

P.C. :

1. By this petitioner, the petitioner/original accused has challenged the order dated 3.10.2019, passed by the learned Additional Sessions Judge, Pune, whereby his revision petition came to be allowed by setting aside the order passed by the learned trial Magistrate on 08.02.2019.

2. Heard the learned counsel for the petitioner at sufficient length of time. He submitted that the matter was in fact compromised and he had paid an amount of Rs.15 lakhs and is willing to pay the balance amount.

3. I have considered the submissions so advanced and also perused the material placed before me.

4. The respondent herein had filed a complaint for the offence punishable under Section 138 of the Negotiable Instruments Act, against the petitioner herein/original accused alleging that the cheque for Rs.40 lakhs given by the petitioner/original accused for discharge of legally enforceable debt, came to be dishonoured. During pendency of the complaint case, joint application (exhibit 32) was moved by the parties stating that, they have compromised the matter for consideration of Rs.28,51,000/-. A cheque for that amount was handed over by the petitioner/original accused to the original complainant. Subsequently, that cheque came to be

dishonoured. The complainant then preferred a pursis stating that, the complaint case be continued. Learned trial Magistrate rejected that prayer and directed for issuance of warrant for recovery by resorting to provisions of Section 421 and 431. In revision, the revisional court set aside the order of issuance of warrant for recovery of amount and directed continuation of the complaint case.

5. Compromise allegedly arrived at between the parties was not recorded by the learned Magistrate. The offence was not compounded by the learned trial Magistrate. Cheque given for compromising the matter was not honoured by the petitioner/accused. As such, the complaint case was not disposed of. It was pending for consideration of the learned trial Magistrate.

6. In this view of the matter, the impugned revisional

order is not suffering from any illegality or perversity. In fact, the prayer sought by the present petitioner/original accused from the revisional court was granted to him by allowing his revision. Petition as such devoid of merits and same is accordingly dismissed.

(A. M. BADAR, J.)